

## SCHEDULES

### SCHEDULE 1

Section 11

#### LEAVE AND PAY RELATED TO BIRTH OR ADOPTION: FURTHER AMENDMENTS

##### *Social Security Act 1989 (c. 24)*

- 1 (1) In Schedule 5 to the Social Security Act 1989 (employment-related schemes for pensions and other benefits: equal treatment for men and women), paragraph 5A (unfair paternity leave provisions) is amended as follows.
- (2) In sub-paragraph (3), for “or statutory paternity pay” substitute “, ordinary statutory paternity pay or additional statutory paternity pay”.
- (3) In sub-paragraph (4), in the definition of “period of paid paternity leave”—
  - (a) in paragraph (a), for “or (7)” substitute “, (7) or (8)”, and
  - (b) in paragraph (b), for “or statutory paternity pay” substitute “, ordinary statutory paternity pay or additional statutory paternity pay”.
- (4) After sub-paragraph (7) insert—
  - “(8) This sub-paragraph applies if—
    - (a) the member’s absence from work is due to the fact that he is caring for a child, and
    - (b) in relation to that child, the member satisfies the conditions prescribed—
      - (i) under section 171ZEA(2)(a)(i) and (ii) of that Act,
      - (ii) under section 171ZEB(2)(a)(i) and (ii) of that Act, or
      - (iii) under section 171ZEB(2)(a)(i) and (ii) of that Act as applied by virtue of section 171ZK of that Act (adoption cases not involving placement under the law of the United Kingdom).”

##### *Finance Act 1989 (c. 26)*

- 2 In section 182 of the Finance Act 1989 (disclosure of information), in each of the following provisions—
  - (a) subsection (1)(c),
  - (b) subsection (2A)(a),
  - (c) subsection (4)(c)(iii),
  - (d) subsection (5)(b), and
  - (e) subsection (11A),for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

*Social Security Contributions and Benefits Act 1992 (c. 4)*

- 3 In section 1(5) of SSCBA 1992 (which provides for payment by way of additional contributions out of money provided by Parliament of an annual amount equal to statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay recovered by employers and others), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 4 In section 4(1) of SSCBA 1992 (payments treated as remuneration and earnings), in paragraph (a), for sub-paragraphs (iii) and (iv) substitute—  
     “(iii) ordinary statutory paternity pay;  
     (iv) additional statutory paternity pay; or  
     (v) statutory adoption pay; and”.
- 5 In section 4C of SSCBA 1992 (power to make provision in consequence of provision made by or by virtue of section 4B(2)), in subsection (11), in the definition of “statutory payment”, for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 6 In section 35 of SSCBA 1992 (state maternity allowance), in subsection (3)(a) (power by regulations to prescribe cases in which a woman is disqualified from receiving a maternity allowance), for sub-paragraph (i) substitute—  
     “(i) during the maternity allowance period, except in prescribed cases, she does any work in employment as an employed or self-employed earner;  
     (ia) during the maternity allowance period she fails without good cause to observe any prescribed rules of behaviour;  
     or”.
- 7 (1) Section 165 of SSCBA 1992 (the maternity pay period) is amended as follows.  
 (2) For subsections (2) and (3) substitute—  
     “(2) Subject to subsections (3) and (7), the maternity pay period shall begin with the 11th week before the expected week of confinement.  
     (3) Cases may be prescribed in which the first day of the period is to be a prescribed day after the beginning of the 11th week before the expected week of confinement, but not later than the day immediately following the day on which she is confined.”  
 (3) In subsection (4), at the beginning insert “Except in such cases as may be prescribed,”.  
 (4) After subsection (7) insert—  
     “(8) In subsections (1), (4) and (6) “week” means a period of seven days beginning with the day of the week on which the maternity pay period begins.”
- 8 (1) Section 166 of SSCBA 1992 (rate of statutory maternity pay) is amended as follows.  
 (2) After subsection (1) insert—  
     “(1A) In subsection (1) “week” means any period of seven days.”  
 (3) After subsection (3) insert—

- “(4) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory maternity pay, the amount payable by way of statutory maternity pay for any day shall be taken as one seventh of the weekly rate.”
- 9 (1) Section 171 of SSCBA 1992 (interpretation of Part 12) is amended as follows.
- (2) In subsection (1), omit the definition of “week”.
- (3) After that subsection insert—
- “(1A) In this Part, except section 165(1), (4) and (6), section 166(1) and paragraph 3(2) of Schedule 13, “week” means a period of 7 days beginning with Sunday or such other period as may be prescribed in relation to any particular case or class of case.”
- 10 For the heading to Part 12ZA of SSCBA 1992 (statutory paternity pay), substitute “ORDINARY AND ADDITIONAL STATUTORY PATERNITY PAY”.
- 11 In Part 12ZA of SSCBA 1992, immediately before section 171ZA insert the heading “*Ordinary statutory paternity pay*”.
- 12 In section 171ZA of SSCBA 1992 (entitlement: birth), in subsections (1) and (4), for “statutory paternity pay” substitute “ordinary statutory paternity pay”.
- 13 In section 171ZB of SSCBA 1992 (entitlement: adoption), in subsections (1), (4) and (6), for “statutory paternity pay” substitute “ordinary statutory paternity pay”.
- 14 In section 171ZC of SSCBA 1992 (entitlement: general), for “statutory paternity pay” (wherever occurring) substitute “ordinary statutory paternity pay”.
- 15 (1) Section 171ZD of SSCBA 1992 (liability to make payments) is amended as follows.
- (2) In subsection (1), after “payments of” insert “ordinary”.
- (3) In subsection (2)—
- (a) for “statutory paternity pay”, where first occurring, substitute “ordinary statutory paternity pay”, and
- (b) for “liability for statutory paternity pay” substitute “liability for ordinary statutory paternity pay or additional statutory paternity pay (or both)”.
- 16 (1) Section 171ZE of SSCBA 1992 (rate and period of statutory paternity pay) is amended as follows.
- (2) For “statutory paternity pay”, wherever occurring, substitute “ordinary statutory paternity pay”.
- (3) After subsection (10) insert—
- “(10A) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of ordinary statutory paternity pay, the amount payable by way of ordinary statutory paternity pay for any day shall be taken as one seventh of the weekly rate.”
- 17 Immediately before section 171ZF of SSCBA 1992, insert the heading “*Ordinary and additional statutory paternity pay: supplementary provisions*”.

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- 18 In section 171ZF of SSCBA 1992 (restrictions on contracting out), in subsection (2), for “statutory paternity pay” substitute “ordinary statutory paternity pay or additional statutory paternity pay”.
- 19 In section 171ZG of SSCBA 1992 (relationship with contractual remuneration), at the end insert—
- “(4) In this section “statutory paternity pay” means ordinary statutory paternity pay or additional statutory paternity pay.”
- 20 (1) Section 171ZJ of SSCBA 1992 (Part 12ZA: supplementary) is amended as follows.
- (2) In subsection (5), for “section 171ZE” substitute “sections 171ZE and 171ZEE”.
- (3) In subsection (10)(f), for “statutory paternity pay” substitute “ordinary statutory paternity pay or additional statutory paternity pay”.
- 21 (1) Section 171ZN of SSCBA 1992 (rate and period of statutory adoption pay) is amended as follows.
- (2) At the beginning of subsection (3) insert “Except in such cases as may be prescribed,”.
- (3) After subsection (6) insert—
- “(6A) Where for any purpose of this Part of this Act or of regulations it is necessary to calculate the daily rate of statutory adoption pay, the amount payable by way of statutory adoption pay for any day shall be taken as one seventh of the weekly rate.”
- 22 In section 176 of SSCBA 1992 (parliamentary control), in subsection (1)(a) (regulations requiring affirmative procedure), after “section 171ZE(1)” insert—
- “sections 171ZEA to 171ZEE;”.
- 23 In Schedule 13 to SSCBA 1992 (relationship of statutory maternity pay with benefits and other payments etc.), in paragraph 3 (contractual remuneration), after sub-paragraph (2) insert—
- “(2A) In sub-paragraph (2) “week” means a period of seven days beginning with the day of the week on which the maternity pay period begins.”

*Social Security Administration Act 1992 (c. 5)*

- 24 In section 5 of the Social Security Administration Act 1992 (regulations about claims for and payments of benefit) in subsection (5) for “statutory paternity pay” substitute “, ordinary statutory paternity pay, additional statutory paternity pay”.
- 25 In section 122AA(1) of the Social Security Administration Act 1992 (disclosure of contributions information by Her Majesty’s Revenue and Customs), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 26 In section 150 of the Social Security Administration Act 1992 (annual up-rating of benefits), in subsection (1)(j), after “171ZE(1)” insert “, 171ZEE(1)”.
- 27 In section 163(1) of the Social Security Administration Act 1992 (sums payable out of National Insurance Fund), in paragraph (d) for “or statutory paternity pay” substitute “, ordinary statutory paternity pay or additional statutory paternity pay”.

- 28 (1) Section 165 of the Social Security Administration Act 1992 (adjustments between National Insurance Fund and Consolidated Fund) is amended as follows.
- (2) In subsection (1)(b) (adjustments in respect of the operation of legislation relating to statutory sick pay, statutory maternity pay, statutory paternity pay and statutory adoption pay), for sub-paragraphs (iii) and (iv) substitute—
- “(iii) ordinary statutory paternity pay;
  - (iv) additional statutory paternity pay; and
  - (v) statutory adoption pay.”
- (3) In subsection (5)(a) (adjustments in respect of certain administrative expenses of the Board), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

*Employment Rights Act 1996 (c. 18)*

- 29 In section 27(1) of ERA 1996 (meaning of “wages” etc.), in paragraph (ca), for “statutory paternity pay” substitute “ordinary statutory paternity pay or additional statutory paternity pay”.
- 30 In section 47C of ERA 1996 (leave for domestic and family reasons), in subsection (2), for paragraph (ca) substitute—
- “(ca) ordinary or additional paternity leave, or”.
- 31 In section 71 of ERA 1996 (ordinary maternity leave), for subsection (3) substitute—
- “(3) Regulations under subsection (2)—
  - (a) shall secure that, where an employee has a right to leave under this section, she is entitled to an ordinary maternity leave period of at least 26 weeks;
  - (b) may allow an employee to choose, subject to prescribed restrictions, the date on which an ordinary maternity leave period starts;
  - (c) may specify circumstances in which an employee may work for her employer during an ordinary maternity leave period without bringing the period to an end.”
- 32 In section 73 of ERA 1996 (additional maternity leave), for subsection (3) substitute—
- “(3) Regulations under subsection (2)—
  - (a) may allow an employee to choose, subject to prescribed restrictions, the date on which an additional maternity leave period ends;
  - (b) may specify circumstances in which an employee may work for her employer during an additional maternity leave period without bringing the period to an end.”
- 33 In section 75A of ERA 1996 (ordinary adoption leave), after subsection (2) insert—
- “(2A) Regulations under subsection (2) may specify circumstances in which an employee may work for his employer during an ordinary adoption leave period without bringing the period to an end.”
- 34 In section 75B of ERA 1996 (additional adoption leave), for subsection (3) substitute—
- “(3) Regulations under subsection (2)—

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- (a) may allow an employee to choose, subject to prescribed restrictions, the date on which an additional adoption leave period ends;
  - (b) may specify circumstances in which an employee may work for his employer during an additional adoption leave period without bringing the period to an end.”
- 35 In the heading to section 80A of ERA 1996 (entitlement to paternity leave: birth), after “to” insert “ordinary”.
- 36 In the heading to section 80B of ERA 1996 (entitlement to paternity leave: adoption), after “to” insert “ordinary”.
- 37 In section 80D of ERA 1996 (special cases), in subsection (1) for “80A or 80B” substitute “80A, 80AA, 80B or 80BB”.
- 38 (1) Section 80E of ERA 1996 (Chapter 3: supplemental) is amended as follows.
- (2) For “section 80A or 80B”, wherever occurring, substitute “any of sections 80A to 80BB”.
  - (3) Renumber the provision as so amended to become subsection (1) of the section and at the end insert—
    - “(2) The persons on whom duties may be imposed by regulations under section 80AA or 80BB include not only employees exercising rights by virtue of that section and their employers but also—
      - (a) in the case of section 80AA, the mother of the child in question and any employer or former employer of hers, and
      - (b) in the case of section 80BB, the person by reference to whom the condition in subsection (1)(c) of that section is satisfied and any employer or former employer of that person.”
- 39 (1) Section 88 of ERA 1996 (employments with normal working hours) is amended as follows.
- (2) In subsection (1)(c), for “paternity leave” substitute “ordinary or additional paternity leave”.
  - (3) In subsection (2), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 40 (1) Section 89 of ERA 1996 (employments without normal working hours) is amended as follows.
- (2) In subsection (3)(b), for “paternity leave” substitute “ordinary or additional paternity leave”.
  - (3) In subsection (4), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 41 In section 99 of ERA 1996 (leave for family reasons), in subsection (3), for paragraph (ca) substitute—
- “(ca) ordinary or additional paternity leave, or”.
- 42 In section 106 of ERA 1996 (replacements), in subsection (2)(a) after “adoption leave” insert “or leave under section 80AA or 80BB (additional paternity leave)”.
- 43 In section 235 of ERA 1996 (other definitions), for the definition of “paternity leave” substitute—

““ordinary or additional paternity leave” means leave under any of sections 80A to 80BB.”.

- 44 In section 236 of ERA 1996 (orders and regulations), in subsection (3) (affirmative procedure), for “80A, 80B, 80G” substitute “80A, 80AA, 80B, 80BB, 80G”.

*Finance Act 1997 (c. 16)*

- 45 In section 110 of the Finance Act 1997 (obtaining information from social security authorities), in subsection (5A), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

*Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2)*

- 46 (1) Section 8 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (decisions by officers of Revenue and Customs) is amended as follows.

(2) In subsection (1)—

- (a) in paragraphs (f) and (g), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”, and
- (b) in paragraph (ga), for “statutory paternity or adoption pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay or statutory adoption pay”.

(3) In subsection (3)(b), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

- 47 In section 11(2)(a) of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (appeals against decisions of Her Majesty’s Revenue and Customs), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

- 48 In section 14 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (matters arising as respects decisions), in subsections (1)(a)(i) and (3), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

*Finance Act 1999 (c. 16)*

- 49 (1) Sections 132 and 133 of the Finance Act 1999 shall have effect as if additional statutory paternity pay were a matter which is under the care and management of the Commissioners for Her Majesty’s Revenue and Customs.

(2) In this paragraph “additional statutory paternity pay” includes statutory pay under Northern Ireland legislation corresponding to the provisions of Part 12ZA of SSCBA 1992 relating to additional statutory paternity pay.

*Employment Act 2002 (c. 22)*

- 50 (1) Section 7 of the Employment Act 2002 (funding of employers' liabilities) is amended as follows.

(2) In subsection (1), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

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- (3) In subsection (2), for “statutory paternity pay”, in both places, substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- (4) In subsection (3)—
- (a) for “a payment of statutory paternity pay” substitute “a payment of ordinary statutory paternity pay, additional statutory paternity pay”, and
  - (b) for “in the case of statutory paternity pay” substitute “in the case of ordinary statutory paternity pay or additional statutory paternity pay”.
- 51 In section 8 of the Employment Act 2002 (regulations about payment), for “statutory paternity pay”, wherever occurring, substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 52 In section 10 of the Employment Act 2002 (powers to require information), for “statutory paternity pay”, in both places, substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 53 In section 11 of the Employment Act 2002 (penalties: failure to comply), in subsection (6), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 54 (1) Section 12 of the Employment Act 2002 (penalties: fraud etc.) is amended as follows.
- (2) In subsections (1) and (3), for “statutory paternity pay” substitute “ordinary statutory paternity pay”.
  - (3) In subsections (2) and (4), after “statutory adoption pay” insert “or additional statutory paternity pay”.
  - (4) In subsection (5), for “statutory paternity pay” substitute “ordinary statutory paternity pay”.
- 55 In section 13 of the Employment Act 2002 (supply of information held by Commissioners for Her Majesty’s Revenue and Customs), in subsection (1) for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 56 In section 14 of the Employment Act 2002 (supply of information held by Secretary of State), for “statutory paternity pay”, in both places, substitute “ordinary statutory paternity pay, additional statutory paternity pay”.
- 57 In section 15 of the Employment Act 2002 (use of information by the Commissioners), in subsection (2)—
- (a) in paragraph (a), after “to” insert “ordinary”, and
  - (b) after that paragraph insert—
    - “(aa) their functions in relation to additional statutory paternity pay;”.
- 58 In section 55(8) of the Employment Act 2002 (references to statutory paternity pay or statutory adoption pay to include statutory pay under corresponding Northern Ireland legislation), for “statutory paternity pay” substitute “ordinary statutory paternity pay, additional statutory paternity pay”.

*Proceeds of Crime Act 2002 (c. 29)*

- 59 (1) Section 323 of the Proceeds of Crime Act 2002 (functions) is amended as follows.



- (2) In subsection (1), for paragraph (g) substitute—
  - “(g) ordinary statutory paternity pay;
  - (ga) additional statutory paternity pay;”.
- (3) In subsection (4), for paragraph (d) substitute—
  - “(d) “ordinary statutory paternity pay” must be construed in accordance with sections 171ZA and 171ZB of that Act;
  - (da) “additional statutory paternity pay” must be construed in accordance with sections 171ZEA and 171ZEB of that Act;”.
- (4) In subsection (5)(d), for ““statutory paternity pay”” substitute ““ordinary statutory paternity pay” and “additional statutory paternity pay””.

*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

- 60 (1) Section 660 of the Income Tax (Earnings and Pensions) Act 2003 (taxable benefits: UK benefits) is amended as follows.
- (2) Table A in subsection (1) is amended in accordance with sub-paragraphs (3) to (5).
- (3) Before the entry relating to bereavement allowance insert—

“Additional statutory paternity pay	SSCBA 1992	Section 171ZEA or 171ZEB
Any provision made for Northern Ireland which corresponds to section 171ZEA or 171ZEB of SSCBA 1992.”		

- (4) After the entry relating to jobseeker’s allowance insert—

“Ordinary statutory paternity pay	SSCBA 1992	Section 171ZA or 171ZB
Any provision made for Northern Ireland which corresponds to section 171ZA or 171ZB of SSCBA 1992.”		

- (5) Omit the entry relating to statutory paternity pay.
- (6) In subsection (2), for the words from “statutory adoption pay” to “statutory paternity pay” substitute—
  - “additional statutory paternity pay;
  - ordinary statutory paternity pay;
  - statutory adoption pay;
  - statutory maternity pay;”.

*Commissioners for Revenue and Customs Act 2005 (c. 11)*

- 61 In Schedule 1 to the Commissioners for Revenue and Customs Act 2005 (which lists former Inland Revenue matters), for paragraph 26 substitute—
  - “26 Ordinary statutory paternity pay.
  - 26A Additional statutory paternity pay.”